

App. No. 09/544,399
Amdt. Dated Nov. 5, 2004
Reply to Office Action of September 14, 2004

REMARKS/ARGUMENTS

- *Status of the Claims*

In the Office Action dated September 14, 2004, the Examiner rejected claims 1, 2, 5 and 6. The Examiner allowed claims 11, 12, and 13 and stated that claims 3, 4, and 7-10 would be allowed if rewritten in independent form.

Applicant has amended claims 3, 4, 7, and 9 into independent form, incorporating the limitations of the base claim (1), with the exception of the word "highly," which the Examiner rejected as relative. The commissioner has been authorized to charge any fees that may be required to Kinetic Concepts' deposit account number 500-326.

Applicant has also amended the preamble of claims 1, 2, 5, 6, and 9 to recite a "wound healing apparatus" that includes a foam pad "shaped for insertion into a wound bed" rather than a "pad" that includes a "highly reticulated open cell foam." Applicant has also amended the function in the means-plus-function limitation of claim 1 to recite "means for providing phototherapy through said foam pad into the tissue of the wound bed." The description on page 6, lines 12-20 provide support for the amendment.

- *Claim Rejections*

- Claims 1, 2, and 5 were rejected under 35 U.S.C. § 102(b) as being anticipated by Sinofsky, et al.
- Claim 6 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Sinofsky, et al.

Applicant respectfully requests reconsideration and withdrawal of these rejections in light of the amendment made to claim 1. Sinofsky et. al. does not provide phototherapy to the wound tissue. Rather, Sinofsky's laser energy is directed to the collagen based material 46 (Fig. 3) that is coated and adhered to the outer surface of the balloon. Sinofsky's laser energy causes the collagen material to become cross-linked, making it rigid. Col. 6, lines 1-25; 55-62. Sinofsky's

App. No. 09/544,399
Amdt. Dated Nov. 5, 2004
Reply to Office Action of September 14, 2004

disclosure does not state or suggest that the laser energy penetrates through the collagen into the surrounding tissue, much less that such penetration would result in therapeutic effects.

SUMMARY

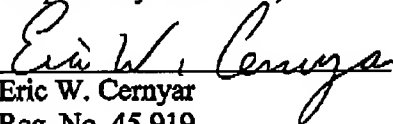
In view of the above, it is submitted that claims 1-13 are in condition for allowance.

Reconsideration and withdrawal of the rejections and objections is hereby respectfully requested.

If upon consideration of the above, the Examiner should feel that outstanding issues remain in the present application that could be resolved, the Examiner is invited to contact the undersigned at the telephone number indicated to discuss resolution of such issues.

Applicant respectfully requests favorable consideration.

Respectfully submitted,


Eric W. Cernyar
Reg. No. 45,919
Attorney for the Applicant

TEL: (210) 863-0063
FAX: (210) 255-6969